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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-988]

Final Determination of Sales at Less Than Fair Value: Silica Bricks and Shapes from the People's Republic of China

AGENCY: Enforcement & Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

SUMMARY: On June 20, 2013, the Department of Commerce (“Department”) published its preliminary determination of sales at less than fair value (“LTFV”) in the antidumping duty investigation of silica bricks and shapes from the People's Republic of China (“PRC”).¹ The Department invited interested parties to comment on the Preliminary Determination. Based on the Department's analysis of the comments received, the Department made changes to the Preliminary Determination. The Department determines that silica bricks and shapes from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in section 735 of the Tariff Act of 1930, as amended (the “Act”). The final weighted-average dumping margins for this investigation are listed in the “Final Determination” section below.

FOR FURTHER INFORMATION CONTACT: Jonathan Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3518.

¹ See Silica Bricks and Shapes from the People's Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination, 78 FR 37203 (June 20, 2013) (“Preliminary Determination”).

SUPPLEMENTARY INFORMATION:

Background

The Department published its Preliminary Determination on June 20, 2013.² Between June 24, 2013 and July 1, 2013, the Department conducted verification of the mandatory respondent Tianjin New Century Refractories Co., Ltd.; Tianjin New World Import & Export Trading Co., Ltd.; and XinYi American Advanced Material Co., Ltd. (collectively, “New Century Group”)³ and its unaffiliated producer, Dengfeng Yuzhong Refractories Co. Ltd. (“Dengfeng Yuzhong”).⁴

On July 15, 2013, Utah Refractories Corporation (“Petitioner”) requested that the Department reject as untimely the unsolicited submission of new factual information filed on July 5, 2013 by New Century Group.⁵ The Department did not reject this submission as it was information requested by the Department during verification of New Century Group and which the Department asked that New Century Group submit to the record.

On July 30, 2013, New Century Group submitted surrogate value comments. On August 12, 2013, Utah Refractories Corporation (“Petitioner”) submitted rebuttal surrogate value comments.

On August 17, 2013 and August 19, 2013, the New Century Group and Fedmet Resources Corporation, respectively, submitted case briefs. On September 3, 2013, Petitioner submitted a rebuttal brief.

² See Preliminary Determination.

³ In the Preliminary Determination, the Department determined to treat these companies as a single entity and continues to do so. See the memorandum from Rebecca Pandolph, International Trade Analyst, AD/CVD Operations, Office 4 through Howard Smith, Program Manager, AD/CVD Operations, Office 4 to Abdelali Elouaradia, Office Director, AD/CVD Operations, Office 4, “Silica Bricks and Shapes from the People’s Republic of China: Affiliation and Single Entity Status,” dated June 13, 2013.

⁴ See the “Verification” section below.

⁵ See Letter from Petitioner to the Secretary of Commerce, “Silica Bricks and Shapes from the People’s Republic of China Request to Reject Untimely Additional Factual Information,” dated July 15, 2013.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.⁶ Therefore, all deadlines in this proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. Thus, the revised deadline for the final determination in this investigation is November 20, 2013.

Period of Investigation

The period of investigation ("POI") is April 1, 2012, through September 30, 2012. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was November 2012.⁷

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Issues and Decision Memorandum.⁸ A list of the issues which the parties raised and to which the Department responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and it is available to all parties in the Central Records Unit,

⁶ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

⁷ See 19 CFR 351.204(b)(1).

⁸ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination of Sales at Less-Than-Fair-Value: Silica Bricks and Shapes from the People's Republic of China," dated concurrently with this notice ("Issues and Decision Memorandum").

room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on the Department's analysis of the comments received, the Department made changes to the following elements of the antidumping duty calculations since the Preliminary Determination:

- Direct and Indirect labor hours
- Iron Scale Consumption and Surrogate Value
- Electricity Consumption
- Freight Distances from Suppliers to Factory
- Packing Material Consumption
- Entered Value
- Brokerage and Handling
- Use of Partial Adverse Facts Available for Unreported U.S. Sales
- Value Added Tax Adjustment

For detailed information concerning all of the changes made, including those listed above, see New Century Group's analysis and surrogate value memoranda.⁹

⁹ See Memorandum from Jonathan Hill, International Trade Analyst, AD/CVD Operations, Office IV, to Howard Smith, Program Manager, AD/CVD Operations, Office IV, "Silica Bricks and Shapes from the People's Republic of China: Analysis of the Final Determination Margin Calculation for New Century Group," dated November 20, 2013; see also memorandum from Jonathan Hill, International Trade Analyst, AD/CVD Operations, Office IV, to Howard Smith, Program Manager, AD/CVD Operations, Office IV, "Final Determination of the Antidumping Duty Investigation of Silica Bricks and Shapes from the People's Republic of China: Factor Valuation Memorandum," dated November 20, 2013.

Scope of the Investigation

The products covered by the scope of this investigation are refractory bricks and shapes, regardless of size, that contain at least 90 percent silica (SiO_2) where at least 50 percent of the silica content, by weight, is crystalline silica, regardless of other materials contained in the bricks and shapes. Refractory refers to nonmetallic materials having those chemical and physical properties that make them applicable for structures, or as components of systems, that are exposed to environments above 1000 degrees Fahrenheit (538 degrees Celsius). The products covered by the scope of this investigation are currently classified under Harmonized Tariff Schedule of the United States (“HTSUS”) numbers 6902.20.1020 and 6902.20.5020. Because the definition of “refractory” in the HTSUS differs from that in the scope of this investigation, products covered by the scope of this investigation may also enter under HTSUS number 6909.19.5095. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

The scope of this investigation does not cover refractory bricks and shapes, regardless of size, that are made, in part, from non-crystalline silica (commonly referred to as fused silica) where the silica content is less than 50 percent, by weight, crystalline silica.

Verification

As provided in section 782(i) of the Act, the Department verified the information submitted by New Century Group for use in the final determination. The Department used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by New Century Group.

Surrogate Country

In the Preliminary Determination, the Department selected Ukraine as the appropriate surrogate country to use in this investigation pursuant to section 773(c)(4) of the Act based on the following: (1) it is at a level of economic development similar to the PRC; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from Ukraine that we can use to value the factors of production. No one commented on the selection of the surrogate country and the Department continues to find that Ukraine is the appropriate surrogate country for this final determination.

Use of Adverse Facts Available

We determined that New Century Group failed to report certain sales and thus withheld necessary information within the meaning of section 776(a) of the Act. Moreover, New Century Group failed to act to the best of its ability to comply with the Department's requests for information within the meaning of section 776(b) of the Act regarding unreported sales. We therefore applied adverse facts available ("AFA") to New Century Group's unreported sales, pursuant to section 776(b) of the Act. As partial AFA, we applied the highest transaction specific margin calculated to the unreported sales.

Furthermore, because the PRC-wide entity did not provide the Department with requested information, pursuant to section 776 (a)(2)(A) of the Act, the Department continues to find it appropriate to base the PRC-wide rate on AFA. As was the case in the Preliminary Determination, we are unable to corroborate the dumping margins in the petition. Therefore, we have assigned the PRC-wide entity a dumping margin equal to the highest transaction-specific dumping margin calculated for the New Century Group.

Final Determination

The Department determines that the following weighted-average dumping margins exist for the period April 1, 2012, through September 30, 2012.

Exporter	Producer	Weighted-Average Dumping Margin
Tianjin New Century Refractories Co., Ltd.; Tianjin New World Import & Export Trading Co., Ltd.; and XinYi American Advanced Material Co., Ltd.	Dengfeng Yuzhong Refractories Co. Ltd.	63.81%
PRC-wide Entity*		73.10%

* The PRC-wide entity includes Shandong Daqiao Co., Ltd.

Disclosure

We intend to disclose to parties the calculations performed in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all appropriate entries of silica bricks and shapes from the PRC as described in the “Scope of the Investigation” section, which were entered, or withdrawn from warehouse, for consumption on or after June 20, 2013, the date of publication of the Preliminary Determination in the Federal Register. Further, the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price as follows: (1) for the exporter/producer combination listed in the table above, the cash deposit rate will be equal to the weighted-average dumping margin which the Department determined in this final determination; (2) for all combinations of PRC exporters/producers of merchandise under consideration which have not

received their own separate rate above, the cash deposit rate will be equal to the weighted-average dumping margin established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash deposit rate will be equal to the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of the final affirmative determination of sales at LTFV. As the Department’s final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation,

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Dated: November 20, 2013.

Appendix

Issues

Comment 1: Verification Corrections

Comment 2: Scope Exclusion for Fused Silica and Silicon Carbide Bricks and Shapes

Comment 3: Silica Sand Surrogate Value

Comment 4: Iron Scale Surrogate Value

Comment 5: Natural Gas Surrogate Value

Comment 6: Brokerage and Handling Surrogate Value

Comment 7: Facts Available for New Century Group's Unreported U.S. Sales

Comment 8: Value Added Tax

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